

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**MATTHEW FENWICK on behalf of himself
and all similarly situated employees,**

Plaintiff,

v.

**M STREET ENTERTAINMENT, LLC;
KAYNE PRIME, LLC; MOTO, LLC; 1120,
LLC d/b/a SAINT ANEJO; LIME, LLC d/b/a
TAVERN MIDTOWN; VIRAGO, LLC; and
WK, LLC d/b/a WHISKEY KITCHEN,**

Defendants.

Case No.: 3:20-cv-00403

Judge Eli J. Richardson

Magistrate Judge Alistair Newbern

NOTICE OF PENDING FAIR LABOR STANDARDS ACT LAWSUIT

TO: All current and former servers and bartenders, as well as all other employees who were paid an hourly rate less than \$7.25, who worked at Tavern, Saint Añejo, Kayne Prime, Moto, Virago, and Whiskey Kitchen at any time since May 13, 2017.

THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE HAS APPROVED THIS NOTICE. THE COURT HAS NOT DECIDED THE MERITS OF THE PLAINTIFF'S CLAIMS OR THE DEFENDANTS' DEFENSES.

PURPOSE OF NOTICE

This Notice is to inform you of a lawsuit for unpaid wages you are eligible to join, to explain how this lawsuit may affect your rights, and to explain how to join.

DESCRIPTION OF THE LAWSUIT

Plaintiff Matthew Fenwick filed this lawsuit seeking unpaid minimum and overtime wages and liquidated damages under the Fair Labor Standards Act ("FLSA"), on behalf of himself and other tipped employees who worked at Tavern, Saint Añejo, Kayne Prime, Moto, Virago, and Whiskey Kitchen at any time since May 13, 2017. This lawsuit alleges these employees are owed minimum and overtime wages under the FLSA because their employers violated the law by: (1) retaining a portion of tips earned by tipped employees each shift; (2) shifting business expenses to tipped employees by requiring them to purchase uniforms and tools of the trade; (3) requiring tipped employees to share tips with non-tipped employees; (4) requiring, suffering, or permitting tipped employees to perform compensable work "off the clock" without compensation; and (5) requiring tipped employees to spend more than 20% of their shifts performing non-tip-producing work while paid at the lower, tipped hourly rate. Plaintiff alleges Defendants violated the FLSA by engaging in these practices—any of which, if proven true, constitutes a violation of the law.

Defendants dispute these claims and contend that their employees were properly paid under the law.

YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

If you have worked at Tavern, Saint Añejo, Kayne Prime, Moto, Virago, and/or Whiskey Kitchen as a server or bartender, or in any other position earning an hourly rate less than \$7.25, at any time since May 13, 2017, then you are eligible to file a claim in this lawsuit by submitting a consent form to Plaintiff's attorneys.

HOW TO PARTICIPATE IN THIS LAWSUIT

To join this lawsuit, you must return the Consent to Join form attached to this document to Plaintiffs' counsel by [INSERT 60 DAYS FROM DATE THE NOTICE IS ISSUED]. You may return the Consent to Join to Plaintiffs' counsel's via U.S. mail, electronic mail, or fax to:

Mail: YEZBAK LAW OFFICES PLLC
P.O. Box 159033
Nashville, TN 37215

Email: [INSERT]

Fax: (615) 250-2020

The Consent Form must be postmarked or received no later than **[INSERT 60 DAYS FROM DATE THE NOTICE IS ISSUED]** to participate in this lawsuit.

If you join the lawsuit, Plaintiff's counsel will send you a confirmation letter within 14 days. If you do not receive a letter, then contact Plaintiffs' counsel at [INSERT EMAIL]. Keep the confirmation letter as proof you joined the case.

If you do not return a Consent to Join form by [insert date], then you will not be part of this lawsuit.

It is your decision whether to join the lawsuit. If you do not want to join, you do not need to do anything.

YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to participate in this lawsuit by filing the attached Consent Form, your interests will be represented by:

David W. Garrison
Joshua A. Frank
BARRETT JOHNSTON MARTIN & GARRISON
414 Union Street, Suite 900
Nashville, TN 37219
Telephone: (615) 244-2202

Charles P. Yezbak, III
N. Chase Teeple
YEZBAK LAW OFFICES PLLC
2021 Richard Jones Road, Suite 310A
Nashville, TN 37215
Telephone: 615-250-2000

For more information about this lawsuit, contact counsel at [INSERT PHONE] or visit [INSERT WEBSITE].

Plaintiff's attorneys are being paid on a contingency fee basis and have agreed to advance all costs and expenses, consistent with the ethical rules governing Attorneys, to be reimbursed out of any recovery. If there is no recovery, there will be no attorneys' fees, and the attorneys will not be reimbursed for the costs and expenses they advance. If there is a recovery, Plaintiff's attorneys will receive a portion of any settlement or money judgment entered in favor of Plaintiff and those who join this lawsuit or may be paid a separate amount by Defendants, subject to the approval of the Court.

EFFECT OF JOINING OR NOT JOINING THIS LAWSUIT

You have a right to consult or retain other counsel to advise you on whether to join this lawsuit and/or to confer with you about this lawsuit on an ongoing basis, but if you choose to join this lawsuit: (i) you will be bound by any ruling, judgment, or settlement, whether favorable or unfavorable; and (ii) you designate Plaintiff and his attorneys as your agents to make binding decisions on your behalf concerning the lawsuit including the method and manner of conducting this litigation, entering into agreement(s) with Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters related to this lawsuit. Joining this lawsuit does not mean you are entitled to unpaid wages or damages, only that the Plaintiff's attorneys in this case will try to obtain a recovery for you.

If you choose not to join this lawsuit, you will not be affected by any ruling, judgment, or settlement entered in this case, favorable or unfavorable and accordingly may file your own lawsuit. The FLSA has a statute of limitations of two, or potentially three, years. If you choose not to join in this lawsuit, the pendency of this action will not stop the running of the statute of limitations for any claim you may seek to bring in your own lawsuit.

NO RETALIATION PERMITTED

The law prohibits retaliation against persons for asserting their rights under the FLSA. Therefore, Defendants are prohibited from retaliating against you because you participate in this lawsuit.

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Plaintiff,

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CONSENT TO BECOME PARTY PLAINTIFF

I hereby consent, under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), to become a party plaintiff in the above-captioned FLSA lawsuit. I designate the Named Plaintiff listed in the caption above to act as my representative and to make decisions concerning the litigation, the method and manner of conducting this litigation, and entering agreement(s) with Plaintiffs’ counsel concerning attorneys’ fees, costs, and all other matters pertaining to this lawsuit. I understand that I will be bound by the judgment of the Court as to all issues in this lawsuit, including the fairness of any settlement.

I declare the foregoing is true and correct and certify that this is my signature below.

Date: _____

SIGNATURE

NAME (Please Print Clearly)

**PLAINTIFF MUST COMPLETE CONTACT
INFORMATION ON REVERSE SIDE**

**YOU WILL BE REPRESENTED BY
YEZBAK LAW OFFICES PLLC AND
BARRETT JOHNSTON MARTIN & GARRISON, LLC**

PLAINTIFF CONTACT INFORMATION

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Email: _____

Last Four Digits of Social Security Number: _____

Emergency Contact: _____ (Name/Relation)

Emergency Contact Number: _____ (Telephone)

Emergency Contact E-mail Address: _____

Dates of Employment (Approximate Month/Year): Start: _____ End: _____

Position(s) Worked: Server (Yes/No): _____ Bartender (Yes/No): _____

Restaurant Location(s): _____

PLEASE RETURN A COMPLETED FORM:

VIA U.S. MAIL TO:

YEZBAK LAW
P.O. Box 159033
NASHVILLE, TN 37215

OR

Via Email to:

[Designate E-mail Identifiably Linked to Plaintiff's Counsel]